United Nations CAC/COSP/WG.4/2018/5

Conference of the States Parties to the United Nations Convention against Corruption

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Report on the meeting of the Open-ended Intergovernmental Working Group on the Prevention of Corruption held in Vienna from 5 to 7 September 2018

I. Introduction

1. In its resolution 3/2, the Conference of the States Parties to the United Nations Convention against Corruption decided to establish an interim open-ended intergovernmental working group to advise and assist the Conference in the implementation of its mandate on the prevention of corruption.

2. The Conference decided that the Working Group should perform the following functions:

(a) Assist the Conference in developing and accumulating knowledge in the area of prevention of corruption;

(b) Facilitate the exchange of information and experience among States on preventive measures and practices;

(c) Facilitate the collection, dissemination and promotion of best practices in corruption prevention;

(d) Assist the Conference in encouraging cooperation among all stakeholders and sectors of society in order to prevent corruption.

3. In its resolution 7/6, entitled "Follow-up to the Marrakech declaration on the prevention of corruption", the Conference welcomed the ongoing efforts of the Working Group to facilitate the sharing of information between States parties and underlined the importance of the conclusions and recommendations of the Working Group at its meetings held in Vienna from 22 to 24 August 2016 and from 21 to 23 August 2017.

4. In the same resolution, the Conference requested States parties to continue sharing information, and requested the Secretariat, subject to the availability of extrabudgetary resources, to continue its work as an international observatory, including by updating the thematic website of the Working Group with relevant information.

5. In its decision 7/1, the Conference recalled its resolution 6/1, in which it had requested the Secretariat to structure *the provisional agendas of the* subsidiary bodies established by the Conference in such a way as to avoid the duplication of discussions, while respecting their mandates.

6. In its resolution 7/5, entitled "Promoting preventive measures against corruption", the Conference decided that the Working Group should include

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as the topic for 2018 the use and effectiveness of asset declaration systems and conflicts of interest. In accordance with that resolution, the Working Group, at its ninth intersessional meeting, discussed the following topics:

(a) Preventing and managing conflicts of interest (art. 7, para. 4, of the United Nations Convention against Corruption);

(b) Asset and interest disclosure systems (art. 8, para. 5, of the United Nations Convention against Corruption).

II. Organization of the meeting

A. Opening of the meeting

7. The Open-ended Intergovernmental Working Group on the Prevention of Corruption held its ninth meeting in Vienna from 5 to 7 September 2018. The meetings of the Working Group were chaired by the Vice-President of the Conference of the States Parties, Vivian N. R. Okeke (Nigeria).

8. In opening the meeting, the Vice-President recalled Conference resolutions 3/2, 7/5 and 7/6. She highlighted the importance of the meeting's interactive discussions and sharing of experiences in the prevention of corruption and introduced the thematic discussions on preventing and managing conflicts of interest, and asset and interest disclosure systems.

9. A representative of the Secretariat underscored the importance of a comprehensive approach in the fight against corruption, emphasizing that the provisions of chapter II of the Convention against Corruption were essential to promoting transparency, integrity, good governance and education. Furthermore, he noted that the Conference, at its seventh session, had emphatically reiterated the importance of these principles. He also noted that the Working Group, since its first meeting in 2010, had provided States with the opportunity to share good practices, lessons learned and expertise. He further noted that the knowledge gathered through the Working Group had proved to be invaluable to national experts in both reviewing their own countries' implementation of the Convention and serving as reviewing experts in the second cycle of the Implementation Review Mechanism.

10. A representative of the Secretariat introduced the documents of the meeting. The background papers on preventing and managing conflicts of interest (CAC/COSP/WG.4/2018/2) and on asset and interest disclosure systems (CAC/COSP/WG.4/2018/3) had been prepared on the basis of the responses submitted by States following a request by the Secretariat for information and reflected the information received as at 18 June 2018 from 44 States. An additional seven submissions were received after that date. With the agreement of the States concerned, all the submissions received had been made available on the UNODC website, on both the dedicated web pages for the ninth intersessional meeting of the Working Group[1] and the thematic pages[2] of the Group.

B. Adoption of the agenda and organization of work

11. On 5 September 2018, the Working Group adopted the following agenda:

1. Organizational matters:

(a) Opening of the meeting;

(b) Adoption of the agenda and organization of work.

[1] www.unodc.org/unodc/en/corruption/WG-Prevention/session9.html.

[2] www.unodc.org/unodc/en/corruption/WG-Prevention/thematic-compilation-prevention.html.

2. Implementation of Conference resolutions 7/5, entitled "Promoting preventive measures against corruption", and 7/6, entitled "Follow-up to the Marrakech declaration on the prevention of corruption":

   (a) Thematic discussion on preventing and managing conflicts of interest (article 7, paragraph 4, of the United Nations Convention against Corruption);

   (b) Thematic discussion on asset and interest disclosure systems (article 8, paragraph 5, of the United Nations Convention against Corruption).

3. Recommendations and future priorities.

4. Adoption of the report.

C. Attendance

12. The following States parties to the Convention were represented at the meeting of the Working Group: Afghanistan, Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Belgium, Benin, Bhutan, Bolivia (Plurinational State of), Botswana, Brazil, Brunei Darussalam, Bulgaria, Burundi, Cambodia, Canada, Chile, China, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czechia, Dominican Republic, Ecuador, Egypt, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Kazakhstan, Kenya, Kuwait, Lebanon, Lesotho, Libya, Lithuania, Luxembourg, Madagascar, Malaysia, Malta, Mexico, Morocco, Mozambique, Myanmar, Namibia, Nepal, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, South Africa, South Sudan, Spain, Sri Lanka, State of Palestine, Sudan, Switzerland, Thailand, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen and Zimbabwe.

13. The European Union, a regional economic integration organization that is a party to the Convention, was represented at the meeting.

14. The following United Nations entity was represented by an observer: United Nations Development Programme.

15. The following intergovernmental organizations were also represented by observers: Cooperation Council for the Arab States of the Gulf, Council of Europe, General Secretariat of the Council of the European Union, Group of States against Corruption (GRECO), International Anti-Corruption Academy, International Criminal Police Organization, International Institute for Democracy and Electoral Assistance, Organization for Economic Cooperation and Development (OECD), Regional Anti-Corruption Initiative, World Customs Organization (WCO).

III. Implementation of Conference resolutions 7/5, entitled "Promoting preventive measures against corruption", and 7/6, entitled "Follow-up to the Marrakech declaration on the prevention of corruption", and of the recommendations agreed upon by the Working Group at its meeting held in August 2017

A. Thematic discussion on preventing and managing conflicts of interest (article 7, paragraph 4, of the United Nations Convention against Corruption)

16. The Chair introduced the substantive discussion on the item, in relation to which the Secretariat had prepared a background paper (CAC/COSP/WG.4/2018/2). A representative of the Secretariat welcomed the valuable information received from States parties, which formed the basis of the background paper.

17. The representative of the Secretariat stated that, in their submissions, States had recognized the importance of properly managing the conflicts between the private interests of public officials and their duty to act in the public interest, and had provided examples of the approaches taken to prevent corruption that employed effective strategies for managing conflicts of interest. Many States underlined the need for clear standards of conduct in the form of legislation or codes, as well as the need to enforce those standards and ensure that public officials were aware of their duties and responsibilities. The need for proper disclosure of conflicts of interest when such conflicts arose had been addressed in most of the submissions.

18. A panellist from Montenegro discussed how the country's national legislation defined conflicts of interest and described the measures taken by specialized bodies to promote implementation of the legislation, underlining the broad definition of the officials that were required to comply. It was emphasized that ad hoc disclosure of any conflict of interest was required of public officials. Montenegro had introduced restrictions that prohibited occupying more than one position in the public service, as well as a "cooling down" period of two years following the termination of a public function.

19. A panellist from New Zealand gave a presentation on the country's approach to managing conflicts of interest, the specific aspects of the country's island setting and the influence of certain cultural aspects, such as the importance of fairness, trust and social cohesion, and voluntary compliance. He also described administrative and legislative measures taken to promote ethical conduct, which included whistle-blower protection measures, enforcement of rules on conflict of interest, and training.

20. A panellist from the United States outlined the variety of institutional, administrative and legislative measures taken to address conflicts of interest in public administration, as well as the approaches taken to address the specific risks related to conflict of interest encountered by different categories of public officials. He emphasized the need for a comprehensive approach that included the enforcement of written standards, asset and interest disclosure, oversight, training and counselling.

21. A panellist from OECD gave a presentation on the Organization's approach to managing conflicts of interest, underlining the importance of public trust in building effective institutions, clear institutional arrangements for managing conflicts of interest, accountability and fostering a culture of integrity in public administration.

22. During the ensuing discussion, many speakers recognized that conflicts of interest could lead to corruption and underlined that addressing conflicts of interest at all levels of government was critical for the success of efforts to prevent corruption. Speakers described how their countries had approached the prevention and management of conflicts of interest through legislation, policy and practice. Speakers

also highlighted that conflicts of interest were addressed through different means, including constitutional provisions, laws, regulations and codes of conduct.

23. The institution of codes of conduct in particular was identified by a number of speakers as an effective measure for preventing and managing conflicts of interest, in accordance with article 8 of the Convention. Some speakers emphasized the need to enforce the provisions of codes of conduct, while others highlighted the usefulness of such codes in promoting integrity and ethical values.

24. Several speakers underlined the importance of the effective implementation of legislation on conflicts of interest. In that regard, some speakers highlighted how strengthening the protection of reporting persons could promote compliance.

25. Many speakers referred to measures that had been adopted to mitigate risks associated with conflicts of interest, including restrictions on outside activities, secondary employment and financial or commercial interests. Mandatory recusals were often required in situations where a conflict of interest had been identified. In addition, speakers emphasized the need to regulate the receipt and declaration of gifts and favours, including those received during official meetings or abroad.

26. Speakers noted that specific regulations were required for different categories of public officials. Several speakers spoke of additional measures adopted in relation to public positions considered especially vulnerable to corruption, such as those related to public procurement, law enforcement, financial control or customs. One speaker underlined the importance of addressing conflicts of interest in relation to the highest-level public officials.

27. Speakers highlighted the importance of preventing and managing conflicts of interest among judges and prosecutors. In that regard, measures such as requiring extended declarations of assets and interests from the officials and their family members, strict regimes of incompatibilities and mandatory recusal were identified as effective.

28. Speakers emphasized the need to extend provisions on conflict of interest to the managers and staff of State-owned enterprises. Furthermore, conflict of interest in relation to diplomats was noted to be an important, though sometimes underestimated, issue.

29. Many speakers recounted how their legislation required "cooling off" periods for public officials upon leaving the public service to prevent the misuse of inside information or other conflicts of interest.

30. A speaker underlined that the mere existence of a potential conflict of interest was not a crime. Measures promoting the proactive disclosure and management of conflicts of interest were considered crucial to ensuring the integrity of the public service.

31. Several speakers emphasized the need to raise awareness and provide ethics guidelines and advice, as well as training, to public officials. In particular, speakers described how information and communications technologies were used to provide training and ethics advice to public officials. Efforts were also made to raise the awareness of the general public and promote public participation.

32. Speakers underlined the importance of enforcing rules on conflict of interest, as well as of imposing administrative or criminal sanctions for breaches of such rules. In that regard, several speakers referred to the need for effective asset and interest declaration systems.

33. Several speakers recognized the importance of exchanging experiences and good practices among States parties and called on the Secretariat to continue to provide technical assistance and to organize training events in that regard, subject to availability of resources.

34. Two speakers noted that the Group of 20 was in the process of adopting a set of high-level principles for preventing and managing conflicts of interest in the public sector.

35. A representative of the Regional Anti-Corruption Initiative recounted the efforts of the Initiative to promote integrity and build national capacity to address the risks associated with conflicts of interest and corruption in South-Eastern Europe.

B. Thematic discussion on asset and interest disclosure systems (article 8, paragraph 5, of the United Nations Convention against Corruption)

36. The Chair introduced the substantive discussion on the item, for which the Secretariat had prepared a background paper (CAC/COSP/WG.4/2018/3).

37. A representative of the Secretariat thanked States parties for the information they had provided in advance of the meeting, which formed the basis of the background paper, and emphasized the importance of asset and interest declarations as both a means for identifying conflicts of interest and a tool for supporting corruption investigations.

38. A panellist from the Russian Federation reported that the asset disclosure system and legal framework in his country allowed for early identification of corrupt practices and comparison of information provided by declarants over time. He explained that the range of individuals who were required to make asset disclosures was broad in scope, and information about assets was made public, taking into account personal data protection. Not providing information or providing misleading information could lead to sanctions or dismissal. The panellist presented an overview of the asset disclosure process in the Russian Federation, from submission through to verification and potential investigation and prosecution, and referred to the number of cases that had led to administrative or criminal sanctions and asset confiscation.

39. A panellist from Argentina presented the country's asset and interest disclosure system and legal framework, as well as the steps being taken to modernize and upgrade the system to a fully electronic one. The panellist stressed the dual purpose of the disclosure system, which was both a preventive measure and a means to facilitate the detection and investigation of corruption. She stated that Argentina would ensure that the new system was user-friendly, comprehensive and capable of generating quality information that would improve the country's ability to detect and manage conflicts of interest in relation to public officials and to investigate corruption allegations. The panellist further described additional measures that Argentina had adopted to promote transparency in the public sector.

40. A panellist from Malaysia described the country's asset disclosure system and legal framework. He explained that the scope of the system was broad and aimed at curbing corruption and conflicts of interest, detecting abuses of public office, ensuring integrity among public officials and detecting illicit enrichment. He highlighted that asset disclosures were a precondition for the confirmation of appointment and promotion of all public officials in Malaysia, and that the failure to disclose assets could lead to a warning, demotion or dismissal. He also provided examples of high-level asset seizure cases in Malaysia. Lastly, he summarized the current improvements to the asset disclosure system in Malaysia, including the requirement to submit copies of disclosures by high-level public officials to the Malaysian Anti-Corruption Commission, as well as improved public access to those disclosures.

41. A panellist from GRECO discussed the findings and recommendations related to interest and asset disclosures emerging from the fourth round of evaluation of GRECO member States. She noted that most of the systems shared the dual purpose of preventing conflicts of interest and monitoring wealth variations and illicit enrichment. Common trends included the expansion of the scope of declarants and

disclosed assets and interests, the increased level of detail required and the rising popularity of e-declarations. Despite those positive trends, the budgets and resources of the respective oversight bodies had generally not been reinforced. In addition, statistics on sanctions and systematic impact assessments were lacking, and their impact on anti-corruption policies was unclear.

42. Many speakers described how asset and interest disclosure systems functioned in their countries. They elaborated on the purposes of those systems, which were to prevent or identify conflicts of interest, to detect potential illicit enrichment, or a combination of both.

43. The categories of individuals who were required to make asset and interest declarations reportedly differed among countries. The importance of requiring declarations from elected officials, senior officials and officials with responsibility for finance and procurement was stressed.

44. Many speakers emphasized the need to ensure that public officials declare and disclose the interests and wealth of their family members in addition to their own personal interests, which could strengthen the overall regime governing conflict of interest in countries.

45. Speakers underlined the importance of disclosing and addressing non-monetary private interests, from which a conflict with the duty to act in the public interest might arise.

46. The institutional arrangements for asset and interest declarations described by speakers varied. Some countries had a central agency tasked with receiving disclosures, carrying out verifications and either directly investigating suspected breaches or reporting them to the appropriate authorities. In others, declarations were collected by separate ministries and agencies and referred to another authority when there was suspicion of corruption.

47. Speakers reported different practices relating to the frequency of submission in regard to the obligation to submit asset and interest declarations. In some countries, declarations were expected at the beginning and end of employment, whereas in other countries they were to be submitted periodically, generally on an annual basis. Some speakers emphasized the importance of extending the asset and interest declarations regime to include the period after public officials had left public service.

48. Speakers reported on the types of information that were to be included in asset and interest declarations. Emphasis was placed on the collection of financial information to identify both unexplained wealth and conflicts of interest.

49. Some speakers underlined that, after the introduction of an electronic version of the asset and interest disclosure system, the use and effectiveness of the system had greatly improved. Others informed the Working Group that awareness-raising campaigns had increased the rate of submission of declarations by public officials.

50. Speakers highlighted that the verification of asset and interest declarations was crucial for increased accountability and transparency. Some speakers reported that the verification of declarations was carried out for senior level officials only, while others noted that a procedure of random verifications was used. Several speakers noted that electronic comparisons of declarations with other public data facilitated the verification process. Speakers referred to sanctions for non-compliance with disclosure requirements that were mainly administrative.

51. Some speakers emphasized that examples existed in Islamic sharia law dating back to A.D. 634 concerning the prevention of conflicts of interest, the holding of multiple offices and accountability for increases in the income of public officials.

52. Challenges in ensuring effective asset and interest disclosure systems noted by speakers included the identification of investments in the informal sector, the sharing of information among national institutions, the management of large volumes of data and the adequate resourcing of verification systems.

53. Several speakers recognized the value of sharing good practices and expressed the need for technical assistance in order to strengthen asset and interest disclosure systems and the verification of declarations in their countries.

54. The representative of WCO underlined the importance of promoting integrity in customs authorities, which the Organization supported through dialogue and the development of tools.

IV. Recommendations and future priorities

55. The Chair introduced the discussion on recommendations and future priorities and drew participants' attention to the mandate of the Working Group to advise and assist the Conference.

56. A representative of the Secretariat presented an update on the implementation of Conference resolutions 7/5 and 7/6.

57. In fulfilment of its role as an international observatory for good practices in the prevention of corruption, the Secretariat continued to collect information from States parties on their implementation of the provisions of chapter II of the Convention and to update the web pages of the Working Group, including the thematic pages.

58. UNODC had supported the development of various anti-corruption policies or strategies in 10 countries and policy assessments in 4 countries. Comments had been provided on 17 proposed laws or regulations focused on or including corruption prevention provisions, 3 of which had been adopted during the reporting period. Assistance had also been provided on balancing prevention and sanctions in relation to conflict of interest regimes and on the implementation of asset declaration systems. In addition, three regional events on whistle-blower protection had been held in the Pacific region, South Asia and East Africa.

59. UNODC continued to develop relevant teaching modules and curricula to support educational systems at all levels, and supported measures to engage young people in the prevention and reporting of corruption. In addition, UNODC supported efforts to strengthen investigative journalism, the role of parliamentarians in the fight against corruption, integrity in sport and measures to counter corruption in relation to environmental and wildlife crime.

60. During the reporting period, UNODC had provided assistance and training to various anti-corruption bodies. It had also launched the Global Judicial Integrity Network, following consultations with approximately 4,000 judges and other relevant justice sector stakeholders, and continued to develop an e-learning course in judicial ethics. Furthermore, integrity measures had been developed and training had been provided to prosecutors, law enforcement bodies and prison officials.

61. Several speakers reported on the different measures their countries had taken to implement the various provisions of chapter II of the Convention in order to strengthen the prevention of corruption. Measures had been taken to prevent money-laundering, strengthen audit and internal control measures and public procurement, increase transparency and access to public information, and develop new codes of conduct. One speaker noted the challenges posed by strengthening asset and interest disclosure systems while balancing measures to protect the privacy and confidentiality of personal data, and requested the Secretariat to consider providing guidance or facilitating the exchange of experiences on that topic. Another speaker referred to the financial support provided by his country to the Secretariat to provide technical assistance on the prevention of corruption, in particular in support of the Anti-Corruption Academic Initiative.

62. The Working Group acknowledged the progress that had been made by States parties in relation to preventing and managing conflicts of interest and underlined the need to maintain those efforts. The Working Group encouraged States to prioritize initiatives to manage conflicts of interest and to support each other in the development

and implementation of such initiatives, including through the exchange of good practices and experiences.

63. The Working Group took note of the breadth of approaches and measures that had been taken to strengthen integrity in public administration through the introduction of asset and interest disclosure systems, reflected in the submissions received from States in advance of the meeting. Similarities were noted across many jurisdictions in terms of the goals and main elements of the respective systems. In addition, a number of innovative approaches were highlighted that could be drawn upon, where appropriate, by other States parties that were considering such measures.

64. The Working Group recommended that the topic of prevention of corruption in the private sector under article 12 of the Convention be included in its workplan. The discussion could address, inter alia, measures to prevent the solicitation of bribes, information on private sector compliance programmes, bookkeeping standards and voluntary self-reporting, and could involve the participation of representatives from the private sector as panellists.

65. The Working Group also recommended that it further explore the topic of conflict of interest by considering the interlinkages between conflicts of interest and illicit enrichment, asset and interest disclosure systems and reporting persons. In addition, it was suggested that the topic also be considered in the context of balancing such disclosures with measures taken to protect the privacy and confidentiality of personal data.

66. The Working Group noted the importance of the topics of recruitment, hiring and promotion of public officials under article 7, and measures to strengthen the objectivity and transparency of public procurement under article 9.

67. The Working Group encouraged States parties to continue strengthening the exchange of information and good practices on the approaches and measures taken to ensure effective verification of asset and interest declarations and strengthen the accountability of public officials.

68. The Working Group requested that UNODC continue its efforts, subject to the availability of extrabudgetary resources, to support States parties in the implementation of the relevant articles of the Convention. The Working Group further requested that UNODC continue its efforts to gather information on good practices related to preventing and managing conflicts of interest and to the introduction and functioning of asset and interest disclosure systems, in particular in the context of the second cycle of the Implementation Review Mechanism.

69. The Working Group recalled resolution 7/6, in which the Conference requested that the Working Group hold at least two meetings prior to the eighth session of the Conference, and requested UNODC, subject to the availability of extrabudgetary resources, to continue its work as an international observatory, including by updating the thematic website of the Working Group with relevant information. In addition, the Working Group recalled Conference resolution 7/5, identifying as the topic for the tenth meeting of the Working Group, in 2019, lessons learned in the development, evaluation and impact of anti-corruption strategies (art. 5 of the Convention).

V. Adoption of the report

70. On 7 September 2018, the Working Group adopted the report on its ninth meeting.